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April 14, 2010

By Electronic Submission
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Comments on Proposed Changes to Regulation Z; Docket No. R-1384

Dear Board of Governors:

In February, my office was pleased to see that the second round of changes to the nation's credit card laws went into effect. Consumers have long been harmed by unfair credit card practices, and we are heartened that many of these practices have now ended.

I write to comment on the Federal Reserve Board's proposed third round of changes to Regulation Z to implement the Credit Card Accountability Responsibility and Disclosure Act of 2009, expected to take effect on August, 22, 2010. Many of these new rules are admirable. For instance, the proposed rules would prohibit unreasonable over-the-limit fees. No longer will a credit card company be allowed to charge an exorbitant penalty fee if a cardholder charges just a few dollars over their credit limit. These rules would also prohibit account inactivity fees, which previously imposed unnecessary charges on credit cardholders if they did not use their cards.

However, I am strongly concerned that two of the other proposed rules do not go far enough to protect consumers.

First, Section 226.59 of the proposed rule requires credit card companies to reevaluate interest rate increases imposed on consumers after January 1, 2009. I strongly support this requirement. However, the rules are too vague about how the companies are to conduct this reevaluation, stating generally that the card issuer shall consider "credit risk of the consumer, market conditions, or other factors." My office's experiences have shown that credit card companies will go to any length to avoid making concessions to cardholders, and I am concerned that such a vague revaluation standard will result in very few interest rate increases being reversed. I urge the Board to adopt clear and transparent reevaluation standards, and to rigorously supervise the credit card companies as they undertake this process.

Second, Section 226.52 of the proposed rule sets forth the limits on penalty fees, but as currently written does not limit late payment penalties that are disguised as interest rate increases. The proposed rule does a reasonably good job of implementing the Congressional intent to regulate penalty fees by requiring that they be "reasonable and proportional" to the loss sustained by the card issuer and the need to deter against future late payments. The proposed rule,

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however, does not similarly limit credit card companies from raising interest rates after a late payment or other default to an amount which is "reasonable and proportional" to the loss caused by the default. Furthermore, the new statutory prohibition against imposing multiple penalties based on a single event should be applied to prevent a late fee charge and an interest rate increase for the same default. An increase in the interest rate can be far more costly over time than a single late payment charge. I also urge the Board to set a low safe harbor amount, in an effort to keep credit affordable for all Americans. The Board must constantly look-out for new fees or practices that are designed to get around the proposed limitations on penalty fees and charges, with a commitment to acting swiftly to protect consumers from such abuses.

Again, we find many of the new and proposed rules governing credit cards to be quite favorable to consumers. But we would urge the Board to reconsider some of the proposed rules. From my work as both state treasurer and attorney general here in Ohio, it is clear to me that credit card companies need strict rules; otherwise, they will exploit any loopholes to take advantage of consumers.

Sincerely,

Richard Cordray
Attorney General of Ohio